

1 pleading there was a chart -- several charts that set forth
2 the various management structures over the stations over the
3 course of the license periods. I recall there were at least
4 three major structural changes and possibly more. And I'm not
5 sure if that's what you're referring to, Judge.

6 JUDGE STEINBERG: No.

7 (Pause.)

8 JUDGE STEINBERG: I mean, because if this is a
9 memory test this is --

10 MR. HONIG: No.

11 JUDGE STEINBERG: -- silly.

12 MR. HONIG: No. Let me, let me try and, and --

13 JUDGE STEINBERG: Okay. So, why don't you withdraw
14 the question.

15 MR. HONIG: There were about, I think, six different
16 general managers in one or the other stations during the
17 license term, isn't that right?

18 WITNESS: I'm afraid I can't recall off the top of
19 my head. If you give me a minute I can look through the
20 document and see if that's what I stated.

21 MS. SCHMELTZER: Your Honor, that's a subject of a
22 proposed stipulation.

23 MR. HONIG: Well, that makes it easy --

24 MS. SCHMELTZER: So, I -- in that light I don't know
25 what the purpose of his asking the question is.

1 JUDGE STEINBERG: Yeah. What, what difference does
2 it make when she said "tremendous degree of management
3 turnover." We're going to get --

4 MR. HONIG: Right.

5 JUDGE STEINBERG: -- that information and --

6 MR. HONIG: Let me -- I was doing it as foundation
7 for the next question.

8 JUDGE STEINBERG: Okay. So, let's ask the next
9 question.

10 MR. HONIG: Let me next the question. If she needs
11 to amplify it, then we'll start -- that's fine. The state-
12 ment, "The lack of consistent leadership has increased the
13 difficulties in maintaining a consistent recruitment program."
14 As used in this pleading, that statement was mixed fact and
15 law, isn't it?

16 WITNESS: I guess I'm not certain that there's a
17 legal argument in that sentence per se. The overall point
18 that perhaps there's some flexibility in the rules in cases
19 where there have in the past been some management upheavals is
20 sort of implicitly a legal argument, I suppose.

21 MR. HONIG: And what was the source of that legal
22 argument, Arnold & Porter or the Church?

23 WITNESS: Again, it's a little difficult for me to
24 answer because I'm not even clear in my mind that it's a legal
25 argument per se, but I think the point that the management

1 turnover should be taken into account in assessing a station's
2 compliance with EEO requirements I believe originated with
3 Arnold & Porter.

4 MR. HONIG: Okay. That, that's --

5 JUDGE STEINBERG: Let me just note that, as long as
6 we're off the area of "tremendous" I -- if you look at page 7
7 of tab 7 in the last paragraph on that page you'll see the
8 number reflected there. That's what I was looking for and
9 couldn't find. It's on the typed page 2, hand page 7.

10 MR. HONIG: Yes.

11 JUDGE STEINBERG: Just I don't want to keep Ms.
12 Cran-- I don't want to let, let her leave here with this --

13 MR. HONIG: The number was seven, was seven --

14 WITNESS: Uh-huh.

15 MR. HONIG: -- seven managers.

16 JUDGE STEINBERG: Is that what you meant by "tremen-
17 dous...turnover," "tremendous degree of management turnover"?

18 WITNESS: I can't remember what I was thinking at
19 the time. I think that's a safe bet that I was taking that
20 into account.

21 MR. HONIG: Okay. Ms. Cranberg, I'd like you to
22 turn now to your, your sworn testimony, Church Exhibit 8.
23 Now, in the first paragraph you state you joined the firm in
24 1982 as an associate and have been with the law firm since
25 that year. You're presently a special counsel. When did you

1 seek to be an associate and become a special counsel?

2 WITNESS: I believe I became a special counsel in
3 early 1991.

4 MR. HONIG: Early 1991?

5 WITNESS: I believe that's right.

6 MR. HONIG: Now, in the second paragraph of your
7 statement at the end you, you state, "Since sometime in the
8 mid-1980s I have been the attorney at the law firm with pri-
9 mary day-to-day responsibility for serving the Church's FCC
10 related regulatory needs." Can you -- and that, that was
11 around 1987 or 1988, wasn't it?

12 WITNESS: There was no magic moment where I suddenly
13 took on more responsibility. I think my responsibilities
14 evolved. I was very active in representing the Church in
15 connection with a series of applications to move the FM trans-
16 mitter and I believe that that effort probably started before
17 '87. I am not certain of the exact year. But it, it was sort
18 of a gradual evolution.

19 MR. HONIG: Your -- in your deposition, you, you --
20 which I guess I show you -- in fact, you want an entire tran-
21 script or do you just want the relevant pages?

22 WITNESS: We can start with --

23 MS. SCHMELTZER: Just the relevant pages.

24 WITNESS: -- the relevant pages.

25 MR. HONIG: Sure. Page -- actually, I guess it

1 starts with, with an answer on page 73, line 23, and then goes
2 over to the next page, 74, the end of line 3. Would you read
3 these lines that start here and end here to yourself, please?
4 Your Honor, do you need to see it?

5 (No audible response.)

6 MR. HONIG: Okay. Now, does that refresh your
7 recollection as to what the, the triggering date was, magic
8 moment was?

9 WITNESS: Well, as you can see in the deposition, I
10 said that I was guessing there as well, and I haven't done
11 anything since my deposition to try to learn more precisely
12 when I became more active. It -- there, there -- as I said,
13 there really wasn't a magic moment. It sort of evolved. I
14 was quite active in the project to move the FM transmitter and
15 I, I -- sometime in the mid-80s that project became very
16 active. I just am not certain of when that was.

17 MR. HONIG: You're guessing the deposition was '87,
18 '88, something like that?

19 JUDGE STEINBERG: That was a yes?

20 WITNESS: That's what I said in my deposition.
21 Again, it was a guess.

22 MR. HONIG: Okay. Now, I want to focus your atten-
23 tion on the time in 1989 when KFUD-AM and FM filed their 1989
24 license Renewal Applications which are found in Bureau Exhibit
25 -- I think it's 1 or 2 -- Exhibit 2. Is that right? No, I'm

1 | sorry, Exhibit -- maybe it's one of ours.

2 | JUDGE STEINBERG: Exhibit 1 is the postcard -- oh,
3 | that's a '82 postcard application.

4 | MR. HONIG: I think it's in one of our exhibits
5 | actually. Can we go off the record for one second, Your
6 | Honor?

7 | JUDGE STEINBERG: Yep.

8 | (Off the record.)

9 | (On the record.)

10 | JUDGE STEINBERG: Back on the record.

11 | BY MR. HONIG:

12 | Q Church Exhibit 4, tab 16. Thank you. Now -- and
13 | that is -- that's your signature on the filing with the
14 | Secretary of the Commission?

15 | A I just want to be sure I'm looking at the right
16 | thing. Tab 16 -- it's a September 29, 1989, cover letter from
17 | me is the first --

18 | Q Yes.

19 | A -- page? Yes, that's my signature.

20 | Q And did you provide advice to, to KFUD regarding the
21 | license renewal process which typically follows the filing of
22 | a license Renewal Application?

23 | A Of the steps that the Commission would take in
24 | processing the Renewal Application?

25 | Q Or, or --

1 A Is that what you --

2 Q -- the, the -- well, yes, or members of the public.

3 A I don't remember specifically doing that, but in the
4 ordinary course of my practice it's something I would
5 typically do. But I, I can't remember a specific conversation
6 in connection with this particular application.

7 Q Let me see if I can refresh your memory. Did you
8 ever -- did you have a conversation with anyone at the Church
9 before the NAACP's Petition to Deny was filed concerning
10 Petitions to Deny?

11 MS. SCHMELTZER: Objection. Relevance.

12 JUDGE STEINBERG: This -- I think we're just trying
13 to establish any, any contacts with the Church, any advice
14 that may have been given prior to the filing of the state-- of
15 the --

16 MS. SCHMELTZER: About Petitions to Deny?

17 JUDGE STEINBERG: -- application. I think --

18 MS. SCHMELTZER: That was the question. The ques-
19 tion was --

20 MR. HONIG: Yes. But the fact that sometimes people
21 file Petitions to Deny Renewal Applications.

22 WITNESS: Is your question limited to any particular
23 period of time or are you asking me if I've ever -- if I ever
24 talked to the Church about that?

25 MR. HONIG: Well, actually it's limited to the

1 period of time within the license term until the, the date
2 before the Petition to Deny was filed.

3 WITNESS: I remember receiving a telephone call from
4 Tom Lauher. I think it was in late 1988, raising miscella-
5 neous questions about preparation and filing a Renewal
6 Application and processing of Renewal Applications. I can't
7 remember specifically if in that conversation we talked about
8 Petitions to Deny. It's possible.

9 JUDGE STEINBERG: Well, if you look at paragraph 8
10 of the witness's testimony, she talks about a letter, a
11 November '88 letter. She sent a quiet letter. Within weeks
12 she received inquiries from KFUE-FM General Manager Tom Lauher
13 concerning the FCC's renewal requirements. Do you see that?

14 WITNESS: Yeah. Yeah.

15 JUDGE STEINBERG: Does that refresh your recollec-
16 tion?

17 WITNESS: yes. I -- that, that reference that you
18 see there is, is the same conversation that --

19 JUDGE STEINBERG: Okay.

20 WITNESS: -- to which I was just referring.

21 JUDGE STEINBERG: So, now we -- yes, we have had
22 conversation -- at least a conversation --

23 MR. HONIG: Okay.

24 JUDGE STEINBERG: -- concerning renewal require-
25 ments.

1 MR. HONIG: Okay. And did -- in that conversation
2 did you inform Mr. Lauher that the Beaumont NAACP case arose
3 from a Petition to Deny?

4 WITNESS: I am afraid I can't recall. I, I can't
5 recall if we specifically talked about Petitions to Deny per
6 se or not.

7 MR. HONIG: Well, in fact you sent him a copy of the
8 Beaumont decision of the D. C. Circuit, did, did you not?

9 JUDGE STEINBERG: Okay. The -- let me just --

10 MR. HONIG: Well, let me take that --

11 JUDGE STEINBERG: I was going to say, this is in the
12 record.

13 MR. HONIG: Yeah.

14 JUDGE STEINBERG: Exhibit 8, Attachment 4, is the
15 letter. Paragraph 3 of the letter says, "On the basis of
16 these facts the NBMC filed a Petition to Deny stations'
17 Renewal Applications."

18 MR. HONIG: Okay.

19 JUDGE STEINBERG: So --

20 MR. HONIG: Now, did Mr. Lauher -- it's very
21 helpful. Thank you. Did, did you discuss with Mr. Lauher the
22 subject of Petitions to Deny in connection with this Beaumont
23 case?

24 WITNESS: I can't remember if I did or not.

25 MR. HONIG: Okay. Now, after the Petition to Deny

1 was filed, and both you and Mr. Stortz had -- well, after the
2 Petition to Deny was filed --

3 JUDGE STEINBERG: In this case.

4 MR. HONIG: -- in this case, did you make any
5 recommendations to anyone at the Church or the stations regar-
6 ding steps that should be taken other than filing an
7 Opposition pleading? And what were those recommendations?

8 JUDGE STEINBERG: Let's get an answer to the first
9 question first.

10 MR. HONIG: It was -- the witness nodded her head.
11 I'm sorry.

12 JUDGE STEINBERG: Oh, I didn't see that.

13 MS. SCHMELTZER: Well, the, the nod is not an an-
14 swer. So --

15 WITNESS: No, I didn't intend that as an answer.

16 JUDGE STEINBERG: Ask your question again.

17 MR. HONIG: Okay.

18 MS. SCHMELTZER: Are you, are you talking, Mr.
19 Honig, only about during this license renewal period?

20 JUDGE STEINBERG: Okay.

21 MS. SCHMELTZER: We're limited to this --

22 JUDGE STEINBERG: Yeah.

23 MS. SCHMELTZER: -- license period.

24 JUDGE STEINBERG: Yeah. There's confusion here.

25 MR. HONIG: Right. That's right. Only during the

1 month of January 1990.

2 JUDGE STEINBERG: Okay. The Petition to Deny was
3 filed on what date, January what?

4 MR. HONIG: January --

5 JUDGE STEINBERG: Second or something?

6 MR. HONIG: Something like that. Okay. Between
7 when the Petition to Deny was filed and February 1, 1990, when
8 the renewal term ended --

9 JUDGE STEINBERG: At midnight, right? Forget it.

10 MR. HONIG: It's 3 a.m. Okay. Did, did you make
11 any suggestions to the Church regarding steps to be taken that
12 would be responsive other than filing the Opposition pleading?

13 WITNESS: Again, I am afraid I can't recall specific
14 conversations I had with the Church, so I would have to say I
15 just don't remember whether I did or not.

16 MR. HONIG: Was there a conversation where, where,
17 during that time period, where either you or anyone in, in the
18 Church raised the idea that if there were some job openings
19 coming up it would be a good idea to hire minorities?

20 MS. SCHMELTZER: What time period are we talking
21 about?

22 MR. HONIG: January 1990.

23 WITNESS: I honestly can't remember. I just can't
24 remember -- as I said, I can't remember specific conversations
25 I had with the Church during that month and I, I just don't

1 remember.

2 MR. HONIG: Do you -- let me, let me help you. Do
3 you recall if there was a position open as a receptionist and
4 one as a service worker, maintenance worker, in the middle of
5 January 1990?

6 MS. SCHMELTZER: Objection. Does she now recall or
7 did she recall at the time? What was the question?

8 MR. HONIG: Does she now recall.

9 JUDGE STEINBERG: Does she now recall that there
10 were openings at that time.

11 WITNESS: As a result of the several numerous -- the
12 several subsequent pleadings we filed at the FCC and giving
13 information about hiring by the station, as part of my
14 preparation of these pleadings I came to learn that. Whether
15 I knew it before preparing any of these pleadings, I don't
16 know.

17 BY MR. HONIG:

18 Q Okay. But the, the, the idea of doing -- that
19 you're, you're aware that there was a search using mostly
20 minority sources for applicants from -- for those two
21 positions and that minorities were in fact hired for those two
22 positions. Isn't, isn't that right?

23 A Well, I'm aware now that in 1990 the Church hired
24 some minority employees and used some minority-specific re-
25 cruitment sources. I'm not -- I couldn't tell you when I

1 first became aware of that.

2 Q But then it's, it's safe to assume, isn't it, that
3 the process of recruiting for interviewing and hiring for
4 those two positions in 1990 wasn't your idea?

5 A I just don't remember. I can't -- couldn't say that
6 it was or wasn't my idea because I just don't remember.

7 Q Okay. And in your conversations during January 1990
8 with anyone from the Church, did anyone from the Church
9 suggest to you or ask you what specific responsive steps other
10 than filing the Opposition might be a good idea or might not
11 be a good idea?

12 A I don't have a specific memory of any specific
13 conversations in January of 1990. So, it's possible, but I
14 just don't remember.

15 Q Now, during the license term, what type of informa-
16 tion, if any, did the licensee supply Arnold & Porter to keep
17 Arnold & Porter apprised of the Church's compliance with or
18 continuing efforts with -- germane to the FCC's EEO require-
19 ments?

20 A During the license term?

21 Q During the license term.

22 A I don't recall receiving any documentation from the
23 Church pertinent to EEO before -- I believe in 1988 we re-
24 ceived the Church's 1988 Annual Employment Report with a
25 request that we review that and file it with the Commission.

1 It's possible we received other documents before that, but I
2 don't recall whether we did or not. After '88, I believe from
3 that year on, I believe we received the Annual Employment
4 Reports for review and, and for filing with the Commission.
5 Of course, in connection with the Renewal Application we, we
6 received the EEO Program and worked with the station on that.

7 Q Now, you're familiar, are you not, with various
8 letters from either -- either signed by you or Reed Miller,
9 but prepared by you to Church officials between 1985 or '6 and
10 the end of the license term relating to EEO?

11 A Yes. They weren't -- I, I think you characterized
12 them as being prepared by me. I think some were prepared by
13 me and some by Reed Miller.

14 Q Okay. You're familiar with all of those letters?

15 A Yes.

16 Q Now, was there any occasion on which in response to
17 one of those letters someone from KFUD called you for clarifi-
18 cation or follow-up or to ask whether a particular step needed
19 to be taken and so forth?

20 A The one specific one that I recall is the call from
21 Tom Lauher that's referenced in my testimony following our
22 letter concerning the Beaumont decision. I particularly
23 remember that because in response to that call there -- I
24 generated a written letter and materials back to him and that,
25 that is in my files. It's possible there were other calls

1 that didn't result in any paper product. And, therefore,
2 since I -- there's nothing in my files, I, I simply may not
3 remember further conversations. I -- over those years I got
4 many, many, many calls from clients on a range of subjects and
5 I can't remember all the calls.

6 Q You -- can -- you can't recall any other follow-up
7 by licensee to that -- any of those series of letters except
8 that call from Mr. Lauher, is that correct?

9 MS. SCHMELTZER: I think the --

10 WITNESS: My testimony I think refers to two -- at
11 least two calls from Mr. Lauher --

12 MR. HONIG: Two calls.

13 WITNESS: -- that I recall.

14 MR. HONIG: Okay.

15 WITNESS: I don't recall any others.

16 MR. HONIG: Okay.

17 WITNESS: But that's -- but I, I, I -- I'm not
18 saying that I know there were no others. I simply don't
19 recall.

20 MR. HONIG: Hold on just one second. Now, if you'll
21 turn to your Testimony on page 8? If you would look at the
22 very last sentence in your Testimony?

23 There you state, "I have never had the slightest
24 doubt that Mr. Stortz and Ms. Zika were acting in good faith
25 in providing all the information in both documents referring

1 to filings at the FCC and that any discrepancy was the result
2 of a good-faith misunderstanding." When was the first time
3 you met Mr. Stortz?

4 WITNESS: I met Mr. Stortz when he appeared in
5 Washington earlier this summer for his deposition.

6 MR. HONIG: When was the first time you met Ms.
7 Zika?

8 WITNESS: I --

9 MS. SCHMELTZER: You mean met personally, I take it?

10 MR. HONIG: Met personally.

11 WITNESS: I've never met her personally.

12 MR. HONIG: Okay. And -- no further questions.

13 What time is it?

14 JUDGE STEINBERG: It's 1:01. Are you --

15 MR. HONIG: You gave me an extra minute.

16 JUDGE STEINBERG: Well, I mean, have I, have I
17 impeded your cross-examination in --

18 MR. HONIG: No. No.

19 JUDGE STEINBERG: -- any way?

20 MR. HONIG: I really am --

21 JUDGE STEINBERG: Okay.

22 MR. HONIG: -- done.

23 JUDGE STEINBERG: You really --

24 MR. HONIG: You, you called it literally to the

25 right -- to, to, to the, to the 350 mark in the right field

1 fence.

2 JUDGE STEINBERG: I only wish I could hit that far.
3 Before I forget, I have a -- just a question that would -- is
4 derived. If you look at page 5 of your Testimony, paragraph
5 10? It says, "I received a copy of a 10-page memorandum
6 drafted by Mr. Lauher for his superior and I..." You have,
7 you have Exhibit 7? I don't think Ms. Cranberg has Exhibit 7
8 in front of her, Reverend Devantier's Testimony. Basically,
9 what I want you to do is show --

10 MS. SCHMELTZER: I don't think it's Exhibit 7 --
11 it's not Attachment 7.

12 JUDGE STEINBERG: She's -- it's Exhibit 7, Attach-
13 ment 5.

14 MS. SCHMELTZER: Oh. I'm sorry. Okay.

15 WITNESS: Right.

16 JUDGE STEINBERG: And if you put that in, in front
17 of Ms. Cranberg? And I just want to ask is -- if you'd review
18 Exhibit 7, Attachment 5, and the question is is this the
19 10-page memorandum drafted by Mr. Lauher for his superior to
20 which you refer in paragraph 10?

21 WITNESS: Attachment 5?

22 JUDGE STEINBERG: Yeah.

23 WITNESS: I believe it is. It looks like it.

24 JUDGE STEINBERG: Okay. Thank you. We'll take a
25 recess for lunch. Should we be back at 2 or later?

1 MS. SCHMELTZER: Well, I guess how much cross-exam
2 do you think you have?

3 JUDGE STEINBERG: Let's go off the record.

4 (Off the record.)

5 (On the record.)

6 JUDGE STEINBERG: Yeah. We're back on the record.
7 Let the record reflect that Mr. Honig is exchanging with the
8 Parties and giving me a copy of a one-page biographic-- one-
9 page document which contains biographical information on
10 Richard Miller, and we'll, we'll deal with it, we'll mark it
11 -- I -- we'll do all that stuff when we get to rebuttal. And
12 we'll be in recess until 2:15. Thank you.

13 (Whereupon, at 1:05 p.m. on Friday, June 24, 1994,
14 the hearing was adjourned for the lunch recess to be recon-
15 vened at 2:15 p.m.)
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1 A F T E R N O O N S E S S I O N

2 JUDGE STEINBERG: We'll proceed with Ms. Laden's
3 cross-examination.

4 MS. LADEN: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. LADEN:

7 Q Good afternoon, Ms. Cranberg. I'm Paulette Laden,
8 as you know. I wonder if I could ask you to look at the '89
9 Renewal Application. That's Exhibit -- Church Exhibit 4,
10 Attachment 16. Exhibit 4 is Mr. Stortz's Testimony.

11 Now, I believe you've testified that you filed this
12 Renewal Application on behalf of the station, is that correct?

13 A That's right.

14 Q If you could turn to stamped page 7 of that?
15 Specifically, category 7, "Job Hires." Did you draft that
16 language in here for job hires?

17 A No, I didn't. I believe station staff drafted this
18 entire EEO Program and sent it to me for comment.

19 Q Did you discuss the -- that category 7 with anyone
20 on the station staff before this was filed?

21 A Before it was filed? I don't believe I did.

22 Q Did you discuss with anyone at the station what
23 information was required in order to respond to that category
24 before this was filed?

25 A No. To respond to the job hires question?

1 Q That's correct.

2 A I don't recall having any conversations. I don't
3 recall any questions coming up about it.

4 Q Did there come a time when you learned that there
5 was an inaccuracy in the number of hires that is listed?

6 A Yes. I first discovered that there was an apparent
7 inaccuracy when a letter was sent to the Church by the EEO
8 Branch of the FCC raising a question about the accuracy of
9 that number.

10 Q Do you remember when that was?

11 A It was -- the letter was sometime subsequent to the
12 filing of the Opposition to the Petition to Deny because the
13 correct information was in that document, as I recall, and it
14 was the discrepancy between the information in the Renewal
15 Application and in the Opposition to Petition to Deny that
16 raised the question in the Commission's mind. I don't remem-
17 ber the exact date of the letter from the Commission.

18 Q Okay. Could you turn to Mass Media Bureau
19 Exhibit 8? And could you look at this document and tell me
20 whether that is the letter where, where you first read about
21 the apparent inaccuracy?

22 A Yes. I think that's the letter.

23 Q Now, after you received this letter, Mass Media
24 Bureau Exhibit 8, did you discuss the apparent discrepancy
25 with anyone at the station?

1 A Yes. I talked with Dennis -- at least with Dennis
2 Stortz, possibly also with Paula Zika, and raised the question
3 as to what the explanation was for the discrepancy in the two
4 numbers.

5 Q And they -- did they come back to you with an
6 explanation?

7 A My vague memory is that when I first discussed this
8 with Dennis, Dennis didn't know what the explanation was and
9 told me that he would check into it and get back to me. At
10 some point I recall talking to Dennis and Dennis told me that
11 he and possibly others at the station had gone back and
12 checked the station's records and had found what they thought
13 was an explanation for the discrepancy, which he then ex-
14 plained to me.

15 Q And at some point did you draft a document in which
16 you explained the discrepancy to the Commission?

17 A Yes. I drafted a -- in response to this inquiry
18 letter. I believe the letter raises a number of questions and
19 our response responded to all of these questions.

20 Q Could you turn to Mass Media Bureau Exhibit 9? And
21 is that the response that you filed for the station?

22 A Yes, I believe it is. I guess maybe I should go
23 back and -- I said that I drafted a response. I know I worked
24 closely with station staff and it's possible that Dennis
25 Stortz or someone else at the station did a first draft and I

1 simply edited it. I worked with the station and together we
2 drafted a response.

3 Q Now, in your testimony you indicate that when you
4 reviewed the 1989 Renewal Application you didn't focus on the
5 fact that the AM station had a religious program called for --
6 one of the requirements for knowledge of Lutheran background,
7 is that correct?

8 A I think I testified that I don't recall focusing on
9 it -- on that aspect of the station's operations.

10 Q Now, the Renewal Application was filed in September
11 of 1989, is that correct?

12 A The Renewal Application?

13 Q That's correct.

14 A That's right.

15 Q Okay. If you could turn to Attachment 6 of your
16 testimony, are you familiar with that document?

17 A Yes. That's, that's a letter that I sent to Tom
18 Lauher at KFUD.

19 Q Now, in that letter you discussed, did you not, the
20 Kings Garden case and the, the matter of the requirement for
21 religious background, correct?

22 A That's right.

23 Q And so you were aware in April of '89 that the
24 station did have some questions about that matter, correct?

25 A Yes. It -- in April of '89 I had received an

1 inquiry from Tom Lauher asking me questions about what the
2 FCC's rules were in terms of the imposing of religious re-
3 striction on hiring.

4 Q Okay. Now, in your testimony you indicate that
5 within weeks of your sending an -- a letter to the station
6 that you had sent apparently to all your broadcast clients on
7 November 1, 1988, that you received an inquiry from Tom
8 Lauher. Do you recall that testimony?

9 A In my written testimony. Yes.

10 Q Do you recall what Mr. Lauher's specific concerns
11 were?

12 A I, I don't recall the substance of my actual con-
13 versation with him. I sent him a letter shortly after the
14 conversation and my letter characterized somewhat the ques-
15 tions that he had raised with me. So, on the basis of that
16 letter I deduced that he raised a number of questions about
17 what factors the FCC would consider in evaluating a License
18 Renewal Application.

19 Q Now, if you could turn to Attachment 5 of your
20 Testimony? Is that the letter that we had just referred to?

21 A Yes. That's right.

22 Q Now, do you recall in -- did you have a telephone
23 conversation with Mr. Lauher?

24 A Yeah. I, I remember at least two telephone conver-
25 sations with him, the first of which preceded this December

1 20th letter.

2 Q In, in any one of those conversations with him or
3 any conversation with anyone at the station did you discuss
4 affirmative action requirements specifically?

5 A Again, I don't remember any -- the, the, the sub-
6 stance of any specific conversations with anyone at the sta-
7 tion's -- let me back up. Are you asking for a particular
8 time period?

9 Q During the license term.

10 A During the license term? I know, primarily based on
11 this letter, that I discussed EEO requirements generally with
12 Mr. Lauher before writing this letter. It's very possible I
13 had other conversations with other people at the stations on
14 the same subject, but I don't remember any specific
15 conversations.

16 JUDGE STEINBERG: When you said prior to writing
17 this letter, which letter are you referring to?

18 WITNESS: I'm referring to the -- my Exhibit 5 to my
19 written Testimony.

20 JUDGE STEINBERG: Okay. Attachment 5.

21 WITNESS: Attachment 5.

22 JUDGE STEINBERG: All right. Okay. Thank you.

23 BY MS. LADEN:

24 Q Now, in any of the discussions that you may have had
25 with people at the stations before -- during the license term

1 but before the filing of the Renewal Application, did you
2 discuss with anyone at the station the number of minority
3 employees that they had?

4 A As I believe I testified earlier, beginning in 1988
5 the station sent Arnold & Porter its Annual Employment Reports
6 to review and then file with the Commission. Presumably there
7 was some conversations in connection with those reports each
8 year, but again I don't remember any specific conversations.

9 I should also say to respond to your previous
10 question, you asked if I had any conversations about affirma-
11 tive action during the license period, and I guess in connec-
12 tion with preparing the Renewal Application, which was during
13 the license period, we had some conversations about the EEO
14 Program.

15 Q Did you ever express a concern to the station about
16 the number of minority employees that they had during the
17 license term?

18 A During the license term? I just don't remember if I
19 did or not.

20 Q Did you express a concern about recruitment efforts
21 during the license term?

22 A I know we discussed -- I discussed recruitment
23 efforts with Dennis Stortz as part of preparing the Renewal
24 Application. I don't recall whether I expressed concern. I,
25 I just don't recall and I don't recall whether I did at any